

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re: CAMERON, JANET MARIE

Chapter 7
BKY CASE NO. 04-30865

Debtor

**NOTICE OF HEARING AND MOTION FOR
TURNOVER OF PROPERTY OF THE ESTATE**

TO: THE COURT, UNITED STATES TRUSTEE, THE DEBTOR AND HER ATTORNEY
AND OTHER PARTIES IN INTEREST SPECIFIED IN LOCAL RULE 9013-3:

1. Patti J. Sullivan, Trustee of the bankruptcy estate of the above-named Debtor moves the court for the relief requested below and gives notice of hearing.
2. The Court will hold a hearing on this motion at 1:30 P.M. on September 22, 2004 in Courtroom No. 228A, at the United States Court House, 316 N Robert St., St. Paul, Minnesota 55101.
3. Any response to this motion must be filed and delivered not later than 1:30 P.M. on September 17, 2004, which is three days before the time set for the hearing (excluding intermediate Saturdays, Sundays and legal holidays), or filed and served by mail not later than September 13, 2004, which is seven days before the time set for the hearing (excluding intermediate Saturdays, Sundays and legal holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**
4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§157 and 1334, Bankruptcy Rules 4002 and 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this Chapter 7 case was filed on February 17, 2004. The case is now pending in this Court.

5. This motion arises under 11 U.S.C. §§ 521, 541, 542(a) and 704 and Bankruptcy Rule 9013 and Local Rule 6072-1. This motion is filed under Bankruptcy Rule 9014 and Local Rules 9001-1 to 9006-1 and 9013-1 to 9013-5. The Chapter 7 Trustee requests turnover of property of the estate in order to properly administer the bankruptcy estate.

6. By correspondence dated July 6, 2004, attached hereto and incorporated herewith as Exhibit “A”, the trustee required turnover of property of the estate necessary to complete case administration. Despite the written request to the Debtor’s attorney to surrender property or its value, the Debtor has failed to surrender and continue to withhold the following described property of the estate: (1) funds on deposit in the debtor’s Community National Bank account in the amount of \$372.49; (2) the debtor’s ring appraised at \$100.00; (3) the debtor’s non-exempt wages in the amount of \$464.16; (4) the debtor’s 2003 federal tax refund in the amount of \$2,067.00; (5) the debtor’s 2003 state tax refund in the amount of \$459.00; and (6) the debtor’s 2003 property tax refund in an unknown amount.

7. The debtor is required to surrender all property of the estate to the Trustee under 11 U.S.C. §521 (3) and (4). The provisions of 11 U.S.C. §542 require any entity in possession of property of the estate to turn such property over to the Trustee.

8. In order to ensure that the debtor complies with any order issued by the Court as a result of this motion in a timely manner, the Trustee requests that the order be specifically made applicable to revocation of the discharge under 11 U.S.C. §727 (a)(6)(A) to allow the Trustee to pursue revocation under §727(d)(3) should the debtor not promptly comply with its provisions.

9. This verified motion is based upon all of the files and records herein.

10. Pursuant to Local Rule 9013-2, a separate Memorandum of Facts and Law is submitted with this motion.

WHEREFORE, the undersigned requests an order of the Court:

1. Directing the debtor to turnover to the Trustee the following property of the estate:

(1) funds on deposit in the debtor's Community National Bank account in the amount of \$372.49; (2) the debtor's ring appraised at \$100.00; (3) the debtor's non-exempt wages in the amount of \$464.16; (4) the debtor's 2003 federal tax refund in the amount of \$2,067.00; (5) the debtor's 2003 state tax refund in the amount of \$459.00; and (6) the debtor's 2003 property tax refund in an unknown amount within ten (10) days of the entry of an Order granting the Trustee's motion.
2. Directing that the failure to comply with the Order of the Court requiring a turnover and an accounting as provided for herein be grounds for revocation of discharge under 11 U.S.C. §727(a)(6)(A).
3. For such other relief as the Court deems just and equitable.

Dated this 23rd day of August, 2004.

/e/ Patti J. Sullivan
Patti J. Sullivan
Trustee in Bankruptcy
Attorney ID No. 170124
P.O. Box 16406
St. Paul, MN 55116
(651) 699-4825

VERIFICATION

I, Patti J. Sullivan, Chapter 7 Trustee, the moving party, named in the foregoing notice of hearing and motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on August 23, 2004.

Signed: /e/ Patti J. Sullivan
Patti J. Sullivan, Trustee

PATTI J. SULLIVAN
UNITED STATES CHAPTER 7 PANEL TRUSTEE

P.O. Box 16406, St. Paul, MN 55116

Telephone: (651) 699-4825

Facsimile: (651) 699-4831

July 6, 2004

Stephen R. Ecker, Esq.
Ecker Law Office
302 NW 1st Ave
Faribault, MN 55021

Re: Cameron, Janet Marie
Bankruptcy No. 04-30865

Dear Mr. Ecker:

My review of this file following the meeting of creditors held on March 25, 2004 indicates the debtor has the following non-exempt property:

1.	Community National Bank	\$ 372.49
2.	Ring	\$ 100.00
3.	Non-exempt wages	\$ 464.16
4.	2003 federal tax refund	\$ 2,067.00
5.	2003 state tax refund	\$ 459.00
6.	2003 property tax refund	<u>unknown</u>
<i>Total</i>		<i>\$ 3,462.65</i>

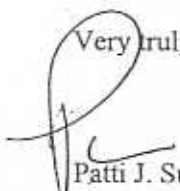
Please have the debtor submit a check made payable to Patti J. Sullivan, Trustee, as and for these non-exempt items. In addition, please have the debtor note the bankruptcy number on the check.

Please provide me bank statements showing when the federal and state tax refunds were received.

I am enclosing Stipulations relating to the 2003 Minnesota property tax refund. Please have the debtor execute all copies and return them to me as soon as possible. Please remind the debtor that as soon as she receives the 2003 property tax refund, she must forward it to me, as trustee. In addition, I hereby request that the debtor provide to me copies of her property tax return as soon as it is filed. If the debtor will not qualify for a property tax refund, please have her execute a statement indicating she will not qualify for a property tax refund.

If you have any questions regarding this matter, please feel free to contact me.

Very truly yours,


Patti J. Sullivan
Trustee in Bankruptcy

PJS:ldc

Encl.

Cameron, Janet/ltir 050504 to atty re non-exempt property

EXHIBIT

"A"

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re: CAMERON, JANET MARIE,

Chapter 7
BKY CASE NO. 04-30865

Debtor.

TRUSTEE'S MEMORANDUM OF FACTS AND LAW
IN SUPPORT OF MOTION FOR TURNOVER OF PROPERTY

Patti J. Sullivan, Chapter 7 Trustee, submits the following Memorandum of Facts and Law in Support of Motion for Turnover in the above-captioned, and as grounds therefore would respectfully show the Court:

FACTS

1. This Chapter 7 case was filed on February 17, 2004, and is pending before this Court.
2. Patti J. Sullivan, was appointed as Chapter 7 Trustee on February 18, 2004.
3. The Trustee made demand upon the debtor to turnover of estate property needed to administer the bankruptcy case on July 6, 2004, as shown in Exhibit A (attached) to the instant motion, and incorporated therein.

DISCUSSION

1. Turnover of Information.

Bankruptcy debtors receive a substantial benefit when relieved of personal liability for repayment of unsecured obligations through discharge. In achieving a balance between the rights of debtors and their creditors, Congress has determined that debtors have an affirmative duty to turn over information necessary to a complete administration of the bankruptcy case.

Sections 521(3) and (4) of the Bankruptcy Code provide in pertinent part,

[t]he debtor shall . . .

(3) if a trustee is serving in the case, cooperate with the trustee as necessary to enable the trustee to perform the trustee's duties under this title;

(4) if a trustee is serving in the case, surrender to the trustee all property of the estate and any recorded information, including books, documents, records, and papers, relating to property of the estate, whether or not immunity is granted under Section 344 of this title;

. . . .

The law interpreting the above sections of the Code is well settled concerning a debtor's affirmative obligation to cooperate with the trustee and to supply necessary information for case administration. See: In re: Lange, 110 B.R. 907, 909 (Bankr. D. Minn 1990); In re: Bently, 120 B.R. 712, 715 (Bankr. S.D.N.Y. 1990); and In re: Ridley, 115 B.R. 731, 736 (Bankr. D. Mass. 1990).

Due to the debtor's failure to turnover property of the estate, administration of this bankruptcy case has been unduly delayed. The Trustee is entitled to an Order requiring that the debtor provides the following information: (1) funds on deposit in the debtor's Community National Bank account in the amount of \$372.49; (2) the debtor's ring appraised at \$100.00; (3) the debtor's non-exempt wages in the amount of \$464.16; (4) the debtor's 2003 federal tax refund in the amount of \$2,067.00; (5) the debtor's 2003 state tax refund in the amount of \$459.00; and (6) the debtor's 2003 property tax refund in an unknown amount.

Forfeiture of Discharge.

Under 11 U.S.C. §727 (a)(6)(A), the Code provides that if debtor refuses to comply with court orders, discharge of debts may be withheld. In this case, the Trustee requests that if the Trustee's motion is granted, the terms of the Order be applicable under 11 U.S.C. §727 (a)(6)(A) so that the debtor will have an additional incentive to perform in a timely manner.

Based upon the foregoing, the Chapter 7 Trustee is entitled to an Order requiring that the debtor turnover the property requested in Exhibit A attached to the Motion so that she may conclude administration of the bankruptcy estate. To expedite resolution of this matter, the Trustee requests that the Order be designated a lawful Order pursuant to 11 U.S.C. §727 (a)(6)(A).

Dated this 23rd day of August, 2004.

/e/ Patti J. Sullivan

Patti J. Sullivan
Trustee in Bankruptcy
Attorney ID No. 170124
P.O. Box 16406
St. Paul, MN 55116
(651) 699-4825

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In the Matter of:

CAMERON, JANET MARIE,

BKY NO. 04-30865

Debtor.

UNSWORN CERTIFICATE OF SERVICE


I, Joeline Kissinger, declare under penalty of perjury that on the 23rd day of August, 2004, I mailed a copy of the attached Notice of Hearing and Motion for Turnover of Property of the Estate, Trustee's Memorandum of Facts and Law in Support of Motion for Turnover of Property, and Proposed Order by first class mail postage prepaid to each entity named below or on the statement attached at the address stated below or in said attachment for each entity:

Stephen R. Ecker
Ecker Law Office
302 NW 1st Avenue
Faribault, MN 55021

United States Trustee
1015 United States Courthouse
300 South Fourth Street
Minneapolis, MN 55415

Janet Marie Cameron
703 Saint Olaf Ave.
Northfield, MN 55057

Executed on this 23rd day of August, 2004.


Joeline Kissinger

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

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ORDER

The above captioned matter came before the Court on September 22, 2004, on motion by the Chapter 7 Trustee, Patti J. Sullivan, in this case, seeking an order requiring the debtor to turnover property of the estate.

Patti J. Sullivan appeared for the Trustee. Other appearances are noted in the record.

The Court made its findings of fact and conclusions of law on the record pursuant to Rule 52 of the Federal Rules of Civil Procedure and Bankruptcy Rule 7052.

Based upon the files and records, and arguments of counsel,

IT IS HEREBY ORDERED:

1. That the debtor shall turn over to the Trustee the following property of the estate: (1) funds on deposit in the debtor's Community National Bank account in the amount of \$372.49; (2) the debtor's ring appraised at \$100.00; (3) the debtor's non-exempt wages in the amount of \$464.16; (4) the debtor's 2003 federal tax refund in the amount of \$2,067.00; (5) the debtor's 2003 state tax refund in the amount of \$459.00; and (6) the debtor's 2003 property tax refund in an unknown amount within ten (10) days of the entry of this Order.
2. That this Order shall constitute a lawful Order within the meaning of 11 U.S.C. §727 (a)(6)(A) for purposes of discharge revocation should the debtor fail to comply with its terms in a timely manner.

Dated this ____ day of _____, 2004.

Dennis D. O'Brien
United States Bankruptcy Judge